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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,953	03/16/2001	Osamu Yamaguchi	204904US2SRD	5299
22850	7590	07/29/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			STREGE, JOHN B	
			ART UNIT	PAPER NUMBER
			2625	
DATE MAILED: 07/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/808,953

Applicant(s)

YAMAGUCHI, OSAMU

Examiner

John B Strege

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

In response to Applicant's amendment received 6/10/04, all requested changes to the claims have been entered.

Applicant's arguments with respect to the rejections of claims 2, 4-5, 7, 9, 15, 17-19, 25-27 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-16, 20-21, 23-24 are rejected under 35 U.S.C. 103(a) as being anticipated by Morimoto et al. USPN 6,418,235 (hereinafter "Morimoto").

Morimoto discloses an organism collating method and apparatus for specifying an identical person by detecting organism characteristics of a human being (col. 1 lines 5-11). The invention recites a storage means for storing attribute data classifying kinds of organisms relating to the characteristics of the organisms, an extraction means for extracting organism characteristics and attribute data from the organism, searching the

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registered data of organism characteristics in dimension with the attribute data, and specifying the organism by collating the search organism characteristics with the extracted organism characteristics thus allowing for the time for search to be shortened (at least col. 1 lines 42-65). The extraction device extracts face data from the individual attempting access to the system (col. 3 lines 26-35). The attribute data belongs to the registered person and/or face data, and consists of data classifying the kinds such as body type, weight, collation frequency, etc. (col. 3 line 56 – col. 4 line 3). Although Morimoto does not explicitly use the word sorting, the classification can be seen as sorting, since the registered persons are focused and searched on the basis of the attribute data. A stated one of the possible attributes that can be stored for the person is the collation frequency, thus the collation may be focused to the organisms doing frequent entrance to specific areas (col. 2 lines 7-14). If the arrival person coincides with a registered person, the collation history of the attribute data of the registered person, namely, the year, month, day, and time of the entry is stored and the collation frequency ratio is revised (col. 4 lines 35-40).

Claim 23 has similar limitations to claim 1, thus arguments used for the rejection of claim 1 apply equally to the rejection of claim 23.

Claim 24 has similar limitations to claim 1, thus arguments used for the rejection of claim 1 apply equally to the rejection of claim 24.

Regarding claims 7-8, as seen in figure 3 Morimoto stores information such as the name of the registered person, registration number, registration date, and as

discussed above the biometric information of the person attempting access (col. 4 lines 35-40).

Regarding claim 9, Morimoto discloses that the attribute data can be set to the collation frequency so that collation may be focused to the organism doing frequent entrance and exit of a specific area (col. 5 lines 1-3).

Regarding claims 10-11, as discussed the setting of the attribute data to specific characteristics can be read as sorting. The date of entry is updated every time a user enters thus meeting the limitation of changing the information. Morimoto does not explicitly disclose computing a time required for sorting.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to determine the time required for sorting. Applicant has not disclosed that determining the time required for sorting provides an advantage, is used for a particular purpose or solves a stated problem. Furthermore it is well known to determine a sorting time. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the invention disclosed by Morimoto because determining the time required for sorting does not affect the overall result of identifying the person. Therefore it would have been obvious to one of ordinary skill in the art to modify Morimoto to determine the sorting time as disclosed in claim 10.

Regarding claims 12-14, every time the user attempts entry the attribute data is searched thus automatically sorting is performed.

Regarding claim 15, the attribute data may be set to different attributes to be searched (col. 4 line 45 – col. 5 line 11).

Regarding claim 16, as discussed the extraction devices extracts face information for identification purposes. Furthermore Morimoto discloses using an identification card with a reader disposed on a line sensor to read the card (col. 4 lines (49-53)).

Regarding claims 20-21, Morimoto discloses that registered persons stored are focused and searched on the basis of the attribute data for comparison (col. 4 lines 18-20). If there are multiple registered persons then there must inherently be an order to them, and those that are not applicable to the attribute data are taken out of consideration thus performing a type of sorting. The attributes here can be read as flags.

3. Claims 3-5, 17-19, 22, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto et al. USPN 6,418,235 in view of Hamid et al. USPN 6,072,891.

.Morimoto does not explicitly disclose that when identification fails, retry is executed using the specific piece of the object person which is extracted by the extraction device.

Hamid discloses an invention for the identification of individuals using biometric information. Hamid further discloses that a user presents their index finger to a fingerprint scanner and upon registration failure the user again presents their index finger to the scanner thus executing retry using the specific information piece of the object person with the same registration process (col. 13 lines 47-52). Hamid further

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discloses that upon several failures the system can request or the user can select the middle finger and repeat the process (col. 13 lines 52-55). If registration is still unsuccessful another biometric source is requested or selected and registration is again attempted (col. 13 lines 63-65). Hamid further discloses that when the user provides identification, biometric information is requested from sources in an order that is most likely determinative of the user identity (col. 14 lines 32-36). This is selected such that a highest likelihood of identification results or the highest likelihood of rejection results, thus it can be a lower-order or a higher order position (col. 14 lines 37-47). Using this procedure the convenience of current registration systems is retained (col. 14 lines 10-20) while adding extra security and eliminating false negatives.

Morimoto and Hamid are analogous art because they are from the same field of endeavor of authentication using biometrics.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine Morimoto and Hamid to obtain an invention that executes retry using the same biometric information, and biometric information of a lower-order. The motivation for doing so would be to improve Morimoto's method to account for false negatives. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Morimoto and Hamid to obtain the invention as specified in claims 3-5.

Regarding claims 17-19, and 22 as discussed above Hamid discloses verification for higher-order or lower-order information pieces (col. 14 lines 33-47).

Claim 22 is similar to claim 3, thus the same arguments used for the rejection of claim 3 apply equally to the rejection of claim 22.

Claim 26 is similar to claim 4, thus the same arguments used for the rejection of claim 4 apply equally to the rejection of claim 26.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto et al. USPN 6,418,235 in view of Kado et al. USPN 5,995,639 (hereinafter "Kado").

As discussed, Morimoto discloses the limitations of claim 1. As can be seen in figure 3 Morimoto discloses a facial region detector to obtain the interval of the eyes, position of the nose, etc. Morimoto does not explicitly disclose that the extraction is based on grayscale information.

Kado discloses an apparatus for identifying a person where a feature point extracting section extracts feature points from the stored face image (col. 3 lines 34-35). The face image is divided into many small patches and the average brightness of each patch (grayscale) is used for identification purposes (col. 4 lines 2-6).

Morimoto and Kado are analogous art because they are from the same field of endeavor of identifying a person using facial image processing.

At the time of the invention it would have been obvious at the time of the invention to one of ordinary skill in the art to combine Morimoto and Kado to obtain a facial matching step that extracts a feature of the user based on grayscale values. The motivation for making this combination is that grayscale allows for less memory to store the image thus freeing more memory space. Therefore it would have been obvious to



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one of ordinary skill in the art to combine Morimoto and Kado in order to obtain the invention as specified in claim 6.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B Strege whose telephone number is (703) 305-8679. The examiner can normally be reached on Monday-Friday between the hours of 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS

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